

116TH CONGRESS  
1ST SESSION

# S. 406

To establish a Federal rotational cyber workforce program for the Federal  
cyber workforce.

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IN THE SENATE OF THE UNITED STATES

FEBRUARY 7, 2019

Mr. PETERS (for himself, Mr. HOEVEN, Ms. HASSAN, and Mr. JOHNSON) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

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## A BILL

To establish a Federal rotational cyber workforce program  
for the Federal cyber workforce.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Federal Rotational  
5       Cyber Workforce Program Act of 2019”.

6       **SEC. 2. DEFINITIONS.**

7       In this Act:

8           (1) AGENCY.—The term “agency” has the  
9       meaning given the term “Executive agency” in sec-  
10       tion 105 of title 5, United States Code, except that

1       the term does not include the Government Account-  
2       ability Office.

3                 (2) COUNCIL.—The term “Council” means the  
4       Chief Human Capital Officers Council established  
5       under section 1303 of the Homeland Security Act of  
6       2002 (5 U.S.C. 1401 note).

7                 (3) CYBER WORKFORCE POSITION.—The term  
8       “cyber workforce position” means a position identi-  
9       fied as having information technology, cybersecurity,  
10      or other cyber-related functions under section 303 of  
11      the Federal Cybersecurity Workforce Assessment  
12      Act of 2015 (5 U.S.C. 301 note).

13                 (4) DIRECTOR.—The term “Director” means  
14      the Director of the Office of Personnel Management.

15                 (5) EMPLOYEE.—The term “employee” has the  
16      meaning given the term in section 2105 of title 5,  
17      United States Code.

18                 (6) EMPLOYING AGENCY.—The term “employ-  
19      ing agency” means the agency from which an em-  
20      ployee is detailed to a rotational cyber workforce po-  
21      sition.

22                 (7) ROTATIONAL CYBER WORKFORCE POSI-  
23      TION.—The term “rotational cyber workforce posi-  
24      tion” means a cyber workforce position with respect

1 to which a determination has been made under sec-  
2 tion 3(a)(1).

3 (8) ROTATIONAL CYBER WORKFORCE PRO-  
4 GRAM.—The term “rotational cyber workforce pro-  
5 gram” means the program for the detail of employ-  
6 ees among rotational cyber workforce positions at  
7 agencies.

8 **SEC. 3. ROTATIONAL CYBER WORKFORCE POSITIONS.**

9 (a) DETERMINATION WITH RESPECT TO ROTA-  
10 TIONAL SERVICE.—

11 (1) IN GENERAL.—The head of each agency, in  
12 the sole and exclusive discretion of the head of the  
13 agency, may determine that a cyber workforce posi-  
14 tion in that agency is eligible for the rotational cyber  
15 workforce program.

16 (2) NOTICE PROVIDED.—The head of an agency  
17 shall submit to the Director—

18 (A) notice regarding any determination  
19 made by the head of the agency under para-  
20 graph (1); and

21 (B) for each position with respect to which  
22 the head of the agency makes a determination  
23 under paragraph (1), the information required  
24 under subsection (b)(1).

1       (b) PREPARATION OF LIST.—The Director, with as-  
2 sistance from the Council and the Secretary of Homeland  
3 Security, shall develop a list of rotational cyber workforce  
4 positions that—

5                 (1) with respect to each such position, to the  
6 extent that the information does not disclose sen-  
7 sitive national security information, includes—

8                     (A) the title of the position;

9                     (B) the occupational series with respect to  
10 the position;

11                     (C) the grade level with respect to the po-  
12 sition;

13                     (D) the agency in which the position is lo-  
14 cated;

15                     (E) the duty location with respect to the  
16 position; and

17                     (F) the major duties and functions of the  
18 position; and

19                 (2) shall be used to support the rotational cyber  
20 workforce program.

21       (c) DISTRIBUTION OF LIST.—Not less frequently  
22 than annually, the Director shall distribute an updated list  
23 developed under subsection (b) to the head of each agency  
24 and other appropriate entities.

1   **SEC. 4. ROTATIONAL CYBER WORKFORCE PROGRAM.**

2       (a) OPERATION PLAN.—

3               (1) IN GENERAL.—Not later than 270 days  
4               after the date of enactment of this Act, the Director,  
5               in consultation with the Council, the Chief Informa-  
6               tion Officer of the Department of Homeland Secu-  
7               rity, representatives of other agencies, and any other  
8               entity as the Director determines appropriate, shall  
9               develop and issue a Federal Rotational Cyber Work-  
10              force Program operation plan providing policies,  
11              processes, and procedures for a program for the de-  
12              tailing of employees among rotational cyber work-  
13              force positions at agencies.

14               (2) UPDATING.—The Director may, in consulta-  
15              tion with the Council and other entities as the Direc-  
16              tor determines appropriate, periodically update the  
17              operation plan developed and issued under para-  
18              graph (1).

19       (b) REQUIREMENTS.—The operation plan developed  
20   and issued under subsection (a) shall, at a minimum—

21               (1) identify agencies for participation in the ro-  
22              tational cyber workforce program;

23               (2) establish procedures for the rotational cyber  
24              workforce program, including—

25                       (A) any training, education, or career de-  
26              velopment requirements associated with partici-

1                   pation in the rotational cyber workforce pro-  
2                   gram;

3                   (B) any prerequisites or requirements for  
4                   participation in the rotational cyber workforce  
5                   program; and

6                   (C) appropriate rotational cyber workforce  
7                   program performance measures, reporting re-  
8                   quirements, employee exit surveys, and other  
9                   accountability devices for the evaluation of the  
10                  program;

11                  (3) provide that participation in the rotational  
12                  cyber workforce program by an employee shall be  
13                  voluntary;

14                  (4) provide that an employee shall be eligible to  
15                  participate in the rotational cyber workforce pro-  
16                  gram if the head of the employing agency of the em-  
17                  ployee, or a designee of the head of the employing  
18                  agency of the employee, approves of the participation  
19                  of the employee;

20                  (5) provide that the detail of an employee to a  
21                  rotational cyber workforce position under the rota-  
22                  tional cyber workforce program shall be on a nonre-  
23                  imbursable basis;

24                  (6) provide that agencies may agree to partner  
25                  to ensure that the employing agency of an employee

1       that participates in the rotational cyber workforce  
2       program is able to fill the position vacated by the  
3       employee;

4                 (7) require that an employee detailed to a rota-  
5       tional cyber workforce position under the rotational  
6       cyber workforce program, upon the end of the period  
7       of service with respect to the detail—

8                         (A) shall be entitled to return to the posi-  
9       tion held by the employee, or a corresponding  
10      position, in the employing agency of the em-  
11      ployee; and

12                         (B) shall not be entitled to return to an-  
13       other position in the employing agency of the  
14       employee, including a more senior position, if  
15       the position held by the employee upon accept-  
16       ing the detail remains open;

17                 (8) provide that discretion with respect to the  
18       assignment of an employee under the rotational  
19       cyber workforce program shall remain with the em-  
20       ploying agency of the employee;

21                 (9) require that an employee detailed to a rota-  
22       tional cyber workforce position under the rotational  
23       cyber workforce program in an agency that is not  
24       the employing agency of the employee shall have all  
25       the rights that would be available to the employee if

1       the employee were detailed under a provision of law  
2       other than this Act from the employing agency to  
3       the agency in which the rotational cyber workforce  
4       position is located;

5               (10) provide that participation by an employee  
6       in the rotational cyber workforce program shall not  
7       constitute a change in the conditions of the employ-  
8       ment of the employee; and

9               (11) provide that an employee participating in  
10      the rotational cyber workforce program shall receive  
11      performance evaluations relating to service in the ro-  
12      tational cyber workforce program in a participating  
13      agency that are—

14                       (A) prepared by an appropriate officer, su-  
15                       pervisor, or management official of the employ-  
16                       ing agency;

17                       (B) based, acting in coordination with the  
18                       supervisor at the agency in which the employee  
19                       is performing that service, on objectives identi-  
20                       fied in the operation plan with respect to the  
21                       employee; and

22                       (C) based in whole or in part on the con-  
23                       tribution of the employee to the agency in which  
24                       the employee performed such service, as com-

1           municated from that agency to the employing  
2           agency of the employee.

3        (c) PROGRAM REQUIREMENTS FOR ROTATIONAL  
4 SERVICE.—

5           (1) IN GENERAL.—An employee serving in a  
6           cyber workforce position in an agency may, with the  
7           approval of the head of the agency, submit an appli-  
8           cation for detail to a rotational cyber workforce posi-  
9           tion that appears on the list developed under section  
10          3(b).

11          (2) SELECTION AND TERM.—

12           (A) SELECTION.—The head of an agency  
13           shall select an employee for a rotational cyber  
14           workforce position under the rotational cyber  
15           workforce program in a manner that is con-  
16           sistent with the merit system principles under  
17           section 2301(b) of title 5, United States Code.

18           (B) TERM.—Except as provided in sub-  
19           paragraph (C), and notwithstanding section  
20           3341(b) of title 5, United States Code, a detail  
21           to a rotational cyber workforce position shall be  
22           for a period of not less than 180 days and not  
23           more than 1 year.

24           (C) EXTENSION.—The Chief Human Cap-  
25           ital Officer of the agency to which an employee

1       is detailed under the rotational cyber workforce  
2       program may extend the period of a detail de-  
3       scribed in subparagraph (B) for a period of 60  
4       days unless the Chief Human Capital Officer of  
5       the employing agency of the employee objects to  
6       that extension.

7                     (3) WRITTEN SERVICE AGREEMENTS.—

8                     (A) IN GENERAL.—The detail of an em-  
9       ployee to a rotational cyber position shall be  
10      contingent upon the employee entering into a  
11      written service agreement with the employing  
12      agency under which the employee is required to  
13      complete a period of employment with the em-  
14      ploying agency following the conclusion of the  
15      detail that is equal in length to the period of  
16      the detail.

17                     (B) CONTINUED SERVICE AGREEMENTS.—

18       A written service agreement under subpara-  
19       graph (A) shall not supersede or modify the  
20       terms or conditions of any other service agree-  
21       ment entered into by the employee under any  
22       other authority or relieve the obligations be-  
23       tween the employee and the employing agency  
24       under such a service agreement. Nothing in this  
25       subparagraph prevents an employing agency

1           from terminating a service agreement entered  
2           into under any other authority under the terms  
3           of such agreement or as required by law or reg-  
4           ulation.

5 **SEC. 5. REPORTING BY GAO.**

6           Not later than the end of the second fiscal year after  
7   the fiscal year in which the operation plan under section  
8   4(a) is issued, the Comptroller General of the United  
9   States shall submit to Congress a report assessing the op-  
10   eration and effectiveness of the rotational cyber workforce  
11   program, which shall address, at a minimum—

12           (1) the extent to which agencies have partici-  
13           pated in the rotational cyber workforce program, in-  
14           cluding whether the head of each such participating  
15           agency has—

16           (A) identified positions within the agency  
17           that are rotational cyber workforce positions;

18           (B) had employees from other partici-  
19           pating agencies serve in positions described in  
20           subparagraph (A); and

21           (C) had employees of the agency request to  
22           serve in rotational cyber workforce positions  
23           under the rotational cyber workforce program  
24           in participating agencies, including a descrip-

1           tion of how many such requests were approved;

2           and

3           (2) the experiences of employees serving in ro-  
4           tational cyber workforce positions under the rota-  
5           tional cyber workforce program, including an assess-  
6           ment of—

7               (A) the period of service;

8               (B) the positions (including grade level and  
9               occupational series) held by employees before  
10              completing service in a rotational cyber work-  
11              force position under the rotational cyber work-  
12              force program;

13              (C) the extent to which each employee who  
14              completed service in a rotational cyber work-  
15              force position under the rotational cyber work-  
16              force program achieved a higher skill level, or  
17              attained a skill level in a different area, with re-  
18              spect to information technology, cybersecurity,  
19              or other cyber-related functions; and

20              (D) the extent to which service in rota-  
21              tional cyber workforce positions has affected  
22              intra-agency and interagency integration and  
23              coordination of cyber practices, functions, and  
24              personnel management.

1   **SEC. 6. SUNSET.**

2         Effective 5 years after the date of enactment of this  
3   Act, this Act is repealed.

